

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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KING DRUG COMPANY OF FLORENCE :

INC. <u>et al.</u> ,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	No. 06-cv-1797
v.	:	
	:	
CEPHALON, INC., <u>et al.</u> ,	:	
	:	
Defendants.	:	

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VISTA HEALTHPLAN, INC., et al. :

Plaintiffs,	:	CIVIL ACTION
	:	No. 06-cv-1833
v.	:	
	:	
CEPHALON, INC., <u>et al.</u> ,	:	
	:	
Defendants.	:	

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APOTEX, INC., :

Plaintiff,	:	CIVIL ACTION
	:	No. 06-cv-2768
v.	:	
	:	
CEPHALON, INC., <u>et al.</u> ,	:	
	:	
Defendants.	:	

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FEDERAL TRADE COMMISSION, :

Plaintiff,	:	CIVIL ACTION
	:	No. 08-cv-2141
v.	:	
	:	
CEPHALON, INC.,	:	
	:	
Defendant.	:	

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**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, upon consideration of Defendant Cephalon, Inc.'s Uncontested Motion to Expedite Consideration of its Motion for Leave to File Two Consolidated Summary Judgment Briefs, it is ORDERED that the Motion is GRANTED and that Plaintiffs' opposition, if any, shall be served and filed no later than Friday, August 26, 2011.

BY THE COURT:

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Mitchell S. Goldberg, J.

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Plaintiffs,	:	CIVIL ACTION
	:	No. 06-cv-1797
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VISTA HEALTHPLAN, INC., et al. :

Plaintiffs,	:	CIVIL ACTION
	:	No. 06-cv-1833
v.	:	
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CEPHALON, INC., <u>et al.</u> ,	:	
	:	
Defendants.	:	

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APOTEX, INC., :

Plaintiff,	:	CIVIL ACTION
	:	No. 06-cv-2768
v.	:	
	:	
CEPHALON, INC., <u>et al.</u> ,	:	
	:	
Defendants.	:	

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FEDERAL TRADE COMMISSION, :

Plaintiff,	:	CIVIL ACTION
	:	No. 08-cv-2141
v.	:	
	:	
CEPHALON, INC.,	:	
	:	
Defendant.	:	

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**DEFENDANT CEPHALON, INC.'S UNCONTESTED MOTION TO EXPEDITE  
CONSIDERATION OF ITS MOTION FOR LEAVE TO FILE  
TWO CONSOLIDATED SUMMARY JUDGMENT BRIEFS**

Defendant Cephalon, Inc. (“Cephalon”) moves to expedite consideration of its motion for leave to file two consolidated summary judgment briefs, filed herewith.

1. Pursuant to this Court’s Scheduling Order, in each of the four pending cases, Cephalon may file one brief of up to 50 pages in support of its motion for summary judgment. *See* Scheduling Order 4, April 27, 2010, Docket No. 280.

2. For the reasons stated in Cephalon’s Motion for Leave to File Two Consolidated Summary Judgment Briefs (“the Motion”), Cephalon seeks leave to file two briefs instead of four in the following form:

- One consolidated opening brief, not to exceed 50 pages, to address issues common to all Plaintiffs.
- One consolidated opening brief, not to exceed 50 pages, to address all remaining claims.
- As required by this Court’s Policies and Procedures, Cephalon will also be filing a single separate Statement of Undisputed Material Facts in support of its motion(s).

3. The parties have conferred about Cephalon’s motion for leave to file two consolidated summary judgment briefs. The FTC does not oppose Cephalon’s motion.

4. Direct Purchaser, End Payor, and Apotex Plaintiffs intend to oppose Cephalon’s Motion for Leave to File Two Consolidated Summary Judgment Briefs. However, they do not oppose this motion for expedited consideration. *See* Certificate of Counsel attached hereto.

5. In accordance with this Court’s Amended Scheduling Order, all summary judgment opening briefs must be filed by September 9, 2011, and all summary judgment responsive briefs must be filed by October 7, 2011. *See* Amended Scheduling Order 2, March 8, 2011, Docket No. 425.

6. Accordingly, Cephalon respectfully requests that this Court set an expedited briefing schedule for Cephalon's Motion for Leave to File Two Consolidated Summary Judgment Briefs and shorten Plaintiffs' time to respond to the Motion to three (3) business days (no later than Friday, August 26, 2011).

### **CONCLUSION**

For the reasons set forth in this uncontested motion for expedited consideration, Cephalon respectfully requests its Motion for Leave to File Two Consolidated Summary Judgment Briefs be considered on an expedited basis.

Dated: August 23, 2011

Respectfully submitted,

/s/ James C. Burling, Esq.  
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*Attorneys for Defendant Cephalon, Inc.*

**CERTIFICATE OF COUNSEL**

Defendant Cephalon, Inc. has contacted counsel for Plaintiffs regarding expedited consideration of Cephalon's Motion for Leave to File Two Consolidated Summary Judgment Briefs. Counsel for Plaintiffs do not oppose Cephalon's motion for expedited consideration.

Dated: August 23, 2011

Respectfully submitted,

/s/ James C. Burling, Esq.  
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*Attorneys for Defendant Cephalon, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 23rd day of August 2011 she caused to be filed electronically the foregoing Defendant Cephalon, Inc.'s Uncontested Motion to Expedite Consideration of its Motion for Leave to File Two Consolidated Summary Judgment Briefs and Certificate of Counsel using the CM/ECF system, which will send e-mail notification of the filing to all counsel of record.

/s/ Nancy J. Gellman  
Nancy J. Gellman